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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,898	01/25/2002	Horst Heckmann	B87.312-26	3283

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EXAMINER

CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 09/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,898

Applicant(s)

HECKMANN, HORST

Examiner

Eric D Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/141,124.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to because reference numeral 11 does not appear to point to a pump in the drawings (see page 3, line 30). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The following changes have been made by informal examiner's amendment in order to correct grammar without the applicant having to submit entire paragraphs just to change one word as required by current Office rules:

- a. In the third line of the abstract in the amendment filed 4/23/02, "side of the vehicle" was changed to "sides of the vehicle";
- b. In the paragraph amended at page 3, lines 22-24 by the amendment filed 4/23/02, "have a curvature" was changed to --has a curvature--.

Response to Amendment

3. The amendment filed 4/23/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In the amendment to the paragraph at page 2, line 8, it is new matter to state that such masts typically extend to deliver concrete at considerable heights (there is no support for this disclosure in the original specification). Also, it is new matter in the

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paragraph amended at page 3, lines 14-21 and throughout the claims to recite the telescope jibs as “stabilizer extensions”.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As noted above, the recitation of “stabilizer extensions” in claim 1 is new matter not supported by the specification as originally filed.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The recitation in claim 1, line 5 of stabilizing extensions is a double inclusion of the two pairs of movable telescopes recited later in the claim. Also at the end of claim 1, it is not clear what is meant by "associated ends" (i.e., ends of what).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-5 and 7-10 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Heckmann (US Patent 5,638,967, cited by applicant) in view of Japanese Patent 5-178171.

Heckmann discloses a vehicle for delivering concrete to an elevated location (column 1, lines 10-25), the vehicle having opposing long sides, a front and a back in Figure 1. Heckmann further teaches in column 3, line 61 – column 4, line 17 a concrete pump, feeding hopper, a swiveling mast (abstract), slewing gear 11, and a frame support 18. The frame support has four beams 19-22; in view of the indefinite new matter recitation of stabilizing extensions, these beams and their free end supports 23-26 meet the positive limitations of the claims. As seen in Figure 1, movable telescopes 19-22 as best understood are on both sides of the vehicle and extend front to back to stabilize the vehicle when the mast is extended as indefinitely recited in view of the new matter. Hollow support sections 37 on each side of the vehicle are a pair of common carriers providing stationary telescopes disposed at least partly in an arc (i.e., on the

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sides next to the mast) tangentially to a longitudinal direction of the vehicle. The stationary telescopes or guides 31-34 extend from one of the long sides of the vehicle inward as far as a middle (at least) and then outward to the same long side. Each telescope also cooperates with one of the movable telescopes to allow it to move outward from the corresponding side of the vehicle. However, Heckmann does not teach the common carrier disposing the front and back movable telescopes and the cooperating stationary telescopes one behind the other such that the movable telescopes emerge from associated ends. Japanese '171 discloses a carrier 12 that stores beams 11 with their ends adjacent so that the free ends with support member 13 emerge from the carrier 12 at its ends. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Heckmann to include a carrier that stores the beams with their ends adjacent in order to store the beams for transport using an alternative arrangement to the various alternative equivalent arrangements already shown in Heckmann's Figures 1-2 and 3-4 (claim 1). In the combination the movable telescopes would be arranged front to back in keeping with Heckmann's longitudinally extending carriers and telescopes (claim 1), and the movable and stationary telescopes would be congruent (i.e., they correspond or conform to each other in shape) (claim 2).

Regarding claims 3-4, in the combination, the stationary telescopes of the common carriers are congruent as broadly recited (i.e., they correspond in shape or radius of arc in Heckmann on each side of the vehicle in that they are mirror images).

Regarding claim 5, Heckmann teaches making the shape or curvatures of the carriers correspond to the curvature of the telescope, and making the movable telescopes with different curvatures would be an obvious matter of design choice, as the invention would appear to work

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just as well with the movable telescopes having different curvatures as having the same curvatures.

Regarding claims 7-10, in the combination Heckmann teaches the stationary telescopes 31-34 on both sides being congruent as broadly recited (i.e., having the same arc or curvature), and this would be a teaching in the combination to make the stationary telescopes on both sides receiving two movable telescopes each of the same curvature.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson and German Published Application 1,756,144 show stabilizers that extend in a straight line.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703/746-3508 for regular communications and 703/308-2571 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric D Culbreth
Primary Examiner
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September 9, 2002